IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6452 of 2005

Between:

Sunchu Venkataiah, s/o Komaraiah,
R/o China Nemilla (Village), Noothankal (Mandal), Nalgonda District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by the Secretary,
Panchayat Raj and Rural Development, Secretariat, Hyderabad.
2 The District Collector, (Panchayat Wing) Nalgonda at Nalgonda.
3 The Divisional Panchayat Officer, Nalgonda at Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in vacating the stay granted on 14-2-2005 without notice as arbitrary, illegal, without jurisdiction and set aside the order dated 3-3-2005 passed in Memo No. 1545/Pts-II/A1/2005 -3 and consequently direct the 1st respondent that there shall be stay of the order dated 20-1-2005 passed by the District Collector, Nalgonda in Proceedings No. 780/04-A1(Pts) pending disposal of the Appeal before the 1st Respondent and pass such further order or orders.

Counsel for the Petitioner: MR.N.VASUDEVA REDDY

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

This Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.6452 OF 2005

ORDER :

The petitioner was elected as Sarpanch of Chinanemilla Gram Panchayat in the year 2001. He was served with a show-cause notice dated 26-10-2004 alleging certain irregularities in the administration of Gram Panchayat and calling upon him to show-cause as to why he should not be placed under suspension. The petitioner has submitted his explanation denying all the allegations made. However, by order dated 20-01-2005 passed by the 2nd respondent – District Collector (P.W), Nalgonda, the petitioner was suspended under Section 249(6) of the A.P. Panchayat Raj Act, 1994 (for short, 'the Act') for a period of 3 months with immediate effect. Aggrieved by the same, the petitioner preferred a Revision before the 1st respondent – Government of A.P. The 1st respondent having entertained the Revision Petition, by order dated 14-02-2005 stayed the operation of the order of suspension dated 20-01-2005 pending finalisation of the Revision Petition. However, under the impugned order dated 3-3-2005 the said order of Stay was vacated which is under challenge in this writ petition.

I have heard the learned Counsel for the petitioner, learned Government Pleader for Panchayat Raj appearing for the respondents and perused the material on record.

The specific plea of the petitioner is that there was no notice to the petitioner before passing the impugned order. A perusal of the impugned order shows that the said order was passed merely on the basis of a petition dated 21-02-2005 received from one A. Ashalu, M.P.T.C., Chinnanemilla village. Evidently the petitioner was not heard before passing the said order. The 1st respondent also failed to assign any reasons which warranted vacation of the order of stay granted earlier on 14-02-2005. Such an order which is not in conformity with the principles of natural justice cannot be sustained and liable to be set aside. It is also to be noted that if the stay is vacated pending the Revision Petition, the Revision Petition itself becomes infructuous. Hence, it would have been appropriate for the first respondent to dispose of the Revision Petition itself expeditiously after hearing both the parties.

Accordingly, the impugned order dated 3-3-2005 is set aside and the Writ Petition is disposed of with a direction to the first respondent to dispose of the Revision Petition as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order. Till such time, the order dated 14-02-2005 shall continue. No costs.

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28TH March, 2005.

Note:- CC in two days.

(B/O)

ghn

To

1 The Government of Andhra Pradesh, Rep. by the Secretary,
Panchayat Raj and Rural Development, Secretariat, Hyderabad.

2 The District Collector, (Panchayat Wing) Nalgonda at Nalgonda.

3 The Divisional Panchayat Officer, Nalgonda at Nalgonda.

4 Two CCs to the Government Pleader for Panchayat Raj and Rural Development, High Court of A.P., Hyderabad. (O.U.T.).

5 Two CD copies.